

APPEAL NO. 032543
FILED NOVEMBER 10, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 4, 2003. The hearing officer resolved the disputed issues by determining that the decedent did not sustain a compensable injury in the form of an occupational disease with a date of injury of _____, and that the appellant (claimant beneficiary) is the proper legal beneficiary of the decedent. The claimant beneficiary appealed the hearing officer's determination that the decedent did not sustain a compensable injury in the form of an occupational disease. The respondent (carrier) responded, urging affirmance. The hearing officer's determination that the claimant beneficiary is the proper legal beneficiary of the decedent has not been appealed and has become final. Section 410.169.

DECISION

Affirmed.

Whether the decedent sustained an occupational disease as defined by Section 401.011(34) presented a fact question for the hearing officer to determine from the evidence presented. The claimant beneficiary had the burden of proof on that issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). In the absence of expert medical opinion establishing a causal connection between the claimed disease, malaria, and the decedent's employment, we cannot conclude that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. See Schaefer v. Texas Employers' Insurance Association, 612 S.W.2d 199 (Tex. 1981).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Robert W. Potts
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Edward Vilano
Appeals Judge